

CHAPTER 47

WATER POLLUTION CONTROL

NOTE: Chapter 47 was enacted in its present form by P.L. 17-87. All SOURCE references will be to later amendments only.

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§47101. Act. This Act shall be known as the *Water Pollution Control Act*.

§47102. Statement of Policy. Whereas, a pollution of the waters of this Territory may be detrimental to public health and welfare, and may adversely affect livestock, wildlife, fish and aquatic life, and may progressively obstruct agricultural, industrial, recreational and other beneficial uses of water, it is hereby declared to be the policy of the government of Guam to conserve its water resources and to protect, maintain, and improve the quality and potability thereof for public water supplies, for the propagation of wildlife, fish and aquatic life, and for agricultural, industrial, recreational and other beneficial uses, to provide a comprehensive program in the public interest for the prevention, abatement and control of new or existing water pollution, to provide effective means for the carrying out and enforcement of such program, and to provide for cooperation with agencies of the United States of America for the purpose of implementing the provisions of this Chapter.

§47103. Definitions. For the purpose of this Act, the following words and phrases shall have the meanings ascribed to them in this Section:

(a) Sewage means the water-carried waste products from the residences, public buildings, institutions or other buildings, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present.

(b) *Industrial waste* means any liquid, gaseous or solid waste substances resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource, together with such sewage as may be present, which may pollute the waters of the territory.

(c) *Other wastes* means garbage, municipal refuse, sand, offal, oil, tar, chemicals and all other substances which may pollute the waters of the territory.

(d) *Contamination* means an impairment of the qualities of the waters of the territory of sewage, industrial wastes, or other wastes to a degree which creates a hazard to human health or is detrimental to the most beneficial uses of the waters.

(e) *Pollution* as used in this Act shall mean the alteration of the physical, chemical or biological properties of any waters of the territory which adversely and unreasonably impairs the water quality of the territory or which renders said waters hazardous to human health or harmful or detrimental to their most beneficial uses.

(f) *Sewage conveyance system* means pipelines or conduits, pumping stations, and force mains, and all other construction, devices and appliances appurtenant thereto, used for collecting or conducting sewage or industrial waste or other wastes to a point of ultimate treatment or disposal.

(g) *Treatment works* means any facility, disposal field, lagoon, dam, pumping station, incinerator, or other works not specifically mentioned herein, installed for the purpose of treating, stabilizing or holding sewage, industrial waste, or other wastes.

(h) *Disposal system* means a system for disposing of sewage, industrial waste or other wastes, and includes sewage conveyance systems and treatment works.

(i) *Waters of the territory* means all shore waters surrounding Guam, streams, lakes, wells, springs, irrigation systems, marshes, watercourses, waterways, drainage systems

and other bodies of water, surface and underground, natural or artificial, publicly or privately owned.

(j) *Person* means any natural person, partnership or unincorporated association of natural persons, trusts, corporations or other types of private legal entities and public entities including the United States of America and the government of Guam and any agency thereof.

§47104. Powers and Duties of the Agency. The Agency is herewith authorized and directed:

(a) To study, investigate, or cause to be studied and investigated and, from time to time, determine ways and means of eliminating from all ground and surface waters of the territory, so far as practical, all substances and materials which pollute the same, and to determine methods, as far as practical, of preventing pollution that is detrimental to the public health or the health of animals, fish, or the industrial development of the territory or detrimental to the practical use of waters for recreational purposes, agricultural or industrial purposes, or obnoxious, nauseous or toxic for domestic purposes;

(b) To develop and adopt a comprehensive program for the prevention, control, and abatement of pollution from the waters of the territory and from time to time review and modify such program for the guidance of the Administrator;

(c) To recommend and encourage studies, investigations, research, and demonstrations relating to water pollution and causes, prevention, control and abatement thereof, as are deemed advisable and necessary and to direct the Administrator regarding any actions deemed necessary from the results of such studies, investigations, research and demonstrations in order that the Administrator may discharge his responsibilities under this Act;

(d) To formulate standards of water purity and classification of water according to them most beneficial uses of water; in formulating such standards and classifications consideration shall be given to the economics of waste treatment and prevention;

(e) To hold hearings necessary for the proper administration of this Act; and to receive complaints and make investigations in relation thereto;

(f) To exercise all incidental powers necessary to carry out the purposes of this Act.

§47105. Powers and Duties of the Administrator. The Administrator shall have and may exercise the following powers and duties:

(a) To consider actions of this agency as set forth in §47104, provided that the Administrator may modify such actions of the Agency only insofar as is necessary to protect human health;

(b) To accept and administer loans and grants from the Federal Government; and from any other source, for carrying out any of its functions;

(c) To issue, modify revoke orders for the abatement of pollution or to require the adoption of such remedial measure, including the construction of new disposal systems or treatment works or the modifications, extension or alteration of existing systems and works, as directed by the Agency;

(d) To examine and approve or disapprove all plans and specifications for the construction and operation of (1) new sewage conveyance systems, disposal systems and treatment works, (2) extensions, modifications of or addition as to new or existing sewage conveyance systems, disposal systems or treatment works, (3) extension modifications of or additions to factories, manufacturing establishments or business enterprises, the operation of which could cause a substantial increase in waste discharges or otherwise substantially alter the physical, chemical or biological properties of the waters of the territory and (4) new outlets for the discharge of sewage, industrial wastes or other wastes into any sewage conveyance system or otherwise into the waters of the territory subject to the rules and regulations of the Agency;

(e) To issue, continue in effect, revoke, modify or deny permits to any person for the collection and discharge of sewage and industrial and other wastes under such conditions as the Agency may prescribe;

(f) To advise, consult and cooperate with other agencies of the government of Guam; with the Federal Government and with affected groups, political subdivisions and industries, in the formulation of such comprehensive program;

(g) To collect and disseminate information relating to water pollution and the prevention, control and abatement thereof;

(h) To conduct as the Administrator deems necessary, studies, investigations, research and demonstrations relating to water pollution and the causes, prevention, control and abatement thereof.

§47106. Pollution Unlawful: Permits. (a) It shall be unlawful for any person to cause the pollution, as defined herein, of any waters of the territory.

(b) It shall be unlawful for any person to construct, install or operate a new sewage conveyance system, disposal systems, or treatment works, extensions, modifications or additions to factories, manufacturing establishments or business enterprises, the operation of which could cause a substantial increase in waste discharges to the waters of the territory or otherwise substantially alter the physical, chemical or biological properties of the waters of the territory, or to make or cause to be made any new outlet for the discharge of sewage, industrial waste or other wastes into any sewage conveyance system or into the waters of this territory without first securing such permit as the Administrator may require, including the submission of plans and specifications and such other information as he deems relevant in connection with the issuance of such permits.

(c) No permit shall be issued under this Section for any use in violation of Water Quality Standards adopted under this Act.

§47107. Inspection and Entry. The Administrator or his duly authorized representative shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to pollution of any waters of the territory.

§47108. Classification and Standards. In order to effectuate a comprehensive program for the prevention, abatement and control of pollution in the waters of the territory, the Agency is authorized to group such waters into classes in accordance with their present and future most beneficial uses; such classification or standards may from time to time be altered or modified. Standards of quality and purity for each such classification shall be adopted in relation to the most beneficial use and benefit to which the waters are or may in the future be

put; such standards may from time to time be altered or modified.

Before streams are classified or standards established or before such standards are modified or repealed, public hearing by the Agency shall be held in connection therewith. Notice of public hearing for the consideration, adoption of amendment or the classification of waters and the standards of purity and quality thereof shall specify the water concerning which a classification is sought to be made or for which standards are sought to be adopted and the time, date and place of such hearing. Such notice is to be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation and in addition shall be mailed to such other persons as the Agency has reason to believe may be directly affected by such classifications and the settings of such standards.

§47108.1. Designation of Groundwater Protection Zone.

(a) In order to implement measures to protect and preserve the integrity of underground water resources, the Agency shall prepare a groundwater protection zone map which defines those land areas which overlie existing and future groundwater development sites or provide recharge waters thereto. The groundwater protection zone map may from time to time be altered or modified based on new information including but not limited to, subsurface geological investigations, water quality analyses, climatological records, water level measurements, and hydrogeological studies and analyses. The Department of Land Management shall prepare a metes and bounds description of the land area designated the Administrator.

(b) Before the adoption of the groundwater protection zone map by the Agency or before said map is altered or modified, public hearings by the Agency shall be held in connection therewith. Notice of public hearings for the consideration, adoption or modification to the groundwater protection zone map shall indicate the time, date and place for such hearing and shall be published at least once a week for two (2) consecutive weeks in a newspaper of general circulation.

§47109. Enforcement. (a) Whenever the agency has reason to believe that a violation of any provision of this Act, or rule or regulation pursuant thereto, has occurred, it may cause written notice to be served upon the alleged violator or violators. The

notice shall specify the provision of this Act or rule or regulation alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a specified time. Any such order shall become final unless, no later than ten (10) days after the date the notice and order are served, the person or persons named therein request in writing a hearing before the Agency. Upon such a request, the Agency shall hold a hearing. In lieu of an order, the Agency may require that the alleged violator or violators appear before the Agency for a hearing at a time and place specified in the notice and answer the charges complained of, or the Agency may initiate action pursuant to §47111 of this Act.

(b) If, after a hearing held pursuant to Subsection (a) of this Section, the Agency finds that a violation or violations have occurred, it shall affirm or modify the order previously issued or issue an appropriate order or orders for the prevention, abatement, or control of the pollution involved or for the taking of such other corrective action as may be appropriate. If, after hearing on an order contained in a notice, the Agency finds that no violation has occurred or is occurring, it shall rescind the order. Any order issued as part of a notice or after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating or controlling the pollution.

(c) No later than ten (10) days after the issuance of the final order of the Agency, an appeal to the Superior Court of Guam may be made against any decision of the Agency by any person who is or may be adversely affected thereby.

(d) Nothing in this Act shall prevent the Agency from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

(e) In connection with any hearing held pursuant to this Section, the Agency, or its designate, shall have power to administer oaths, examine witnesses, and issue notices of hearings and subpoenas requiring the testimony of witnesses and the production of evidence relevant to matter involved in the hearing.

§47110. Emergency Procedure. (a) Any other provisions of law to the contrary notwithstanding, if the Administrator finds

that a generalized condition of pollution exists, and that it creates an emergency requiring immediate action to protect the intended uses of the water as designated in the Standards of Water Quality for Waters of the Territory of Guam, or to protect human health or safety, the Administrator, with the concurrence of the Governor, shall order persons causing or contributing to the pollution to reduce or discontinue immediately the pollutants, and such order shall fix a place and time, not later than twenty-four (24) hours thereafter, for a hearing to be held before the Agency. Not more than Twenty-four (24) hours after the commencement of such hearing, and without adjournment thereof, the Agency shall affirm, modify or set aside the order of the Administrator.

(b) In the absence of a generalized condition of pollution of the type referred to in Subsection (a), but if the Administrator finds that pollutants from the operation of one or more polluting sources is causing imminent danger to the intended uses of the water as designated in the Standards of Water Quality for Waters of the Territory of Guam or is causing imminent danger to human health or safety, he may order the person or persons responsible for the operation or operations in question to reduce or discontinue pollutants immediately, without regard to the provision of Subsection (a) of §47109 of this Act. In such event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in Subsection (a) of §47110 shall apply.

§47111. Penalties. (a) Any person who violates any provision of this Act, or any rule or regulation in force pursuant thereto, shall be guilty of misdemeanor and subject on account thereof to a fine of not to exceed One Thousand Dollars (\$1,000.00). Each day of violation shall constitute a separate offense.

(b) Action pursuant to Subsection (a) of this Section shall not be a bar to enforcement of this Act, rules and regulations in force pursuant thereto, and orders made pursuant to this Act, by injunction or other appropriate remedy, and the Agency shall have power to institute and maintain in the name of this Territory any and all such enforcement proceedings. Such proceedings shall be conducted in and by the Superior Court of Guam.

(c) Nothing in this Act shall be construed to abridge, limit, impair, create, enlarge or otherwise affect substantively or procedurally the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceeding therefor.

§47112. Assistance By Governmental Agencies. The services and facilities of departments, agencies and instrumentalities of the government of Guam may be made available to the Agency in the exercise of its functions to the extent allowed by law.
